

**IN THE UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF GEORGIA  
ALBANY DIVISION**

**JACK M. WOOD,**

**Plaintiff,**

**vs.**

**CITY OF CORDELE,**

**Defendant.**

:  
:  
:  
:  
:  
:  
:  
:

**Civil Action Number:  
1:12-cv-00131-WLS**

**JOINT MOTION FOR REVIEW AND APPROVAL  
OF SETTLEMENT AGREEMENT**

Plaintiff and Defendant, by and through the undersigned counsel, respectfully request that the Court review and approve the Settlement Agreement and Release of Claims that the Parties have reached, and show the Court as follows:

1.

This is a wage and hour case. The Complaint, [Dkt. 1] alleges that Defendant violated the Fair Labor Standards Act of 1938, as amended, 29 U.S.C. §201 *et seq.* (“the FLSA”) when it failed to compensate Plaintiff at one and one half times his regular rate for work performed in excess of forty hours in any week. In its Answer, [Dkt. 6] Defendant denied Plaintiff’s allegations.

2.

Based upon the understandings and assessments of each party, the Parties, acting at arms length and in good faith, have negotiated and entered into a settlement agreement titled “Settlement Agreement and Release of Claims”. A true and correct copy of this Settlement Agreement and Release of Claims is attached hereto and incorporated herein as Exhibit “1”.

3.

Pursuant to *Lynn’s Food Stores, Inc. v. United States of Am.*, 679 F.2d 1350, 1353 (11th Cir. 1982), judicial approval is required to give effect to Plaintiff’s release of his FLSA claims, which is material to the Settlement Agreement and Release of Claims.

4.

In determining whether the settlement is fair and reasonable, the Court should consider the following factors:

- 1) The existence of collusion behind the settlement;
- 2) The complexity, expense and likely duration of the litigation;
- 3) The stage of the proceedings and amount of discovery completed;
- 4) The probability of Plaintiff’s success on the merits;
- 5) The range of possible recovery; and

6) The opinions of counsel.

See *Edwards v. CFI Sales & Mktg.*, 2011 U.S. Dist. LEXIS 134705 (M.D. Fla. Nov. 4, 2011) (citing *Leverso v. South Trust Bank of Ala. Nat. Assoc.*, 18 F.3rd 1527, 1531 n.6 (11th Cir. 1994)).

5.

The Defendant is a municipal government in and a political subdivision of the State of Georgia

6.

The Plaintiff worked as a Chief Codes Inspector for the Defendant.

7.

Both Parties zealously were represented by counsel experienced in litigating matters under the Fair Labor Standards Act.

8.

Prior to this tentative agreement, discovery had been completed. Interrogatories were exchanged and answered, Defendant's and Plaintiff's respective records were examined and the Plaintiff had been deposed.

9.

Each Party's time sheets were inspected, but the times recorded thereon were somewhat disputed and the exact total number of hours worked was uncertain.

10

Both parties estimated Plaintiff's potential recovery. Based on the estimates, the Parties agreed that Plaintiff was entitled to backpay in the amount of \$8,223.87 plus liquidated damages in the same amount, for a total recovery of \$16,447.74. This is approximately one hundred percent of what Plaintiff believes that he is owed.

11.

The Settlement Agreement and Release of Claims calls for Defendant to pay Plaintiff's Attorney's fees and costs of \$25,000. As of this day, Plaintiff counsel's time records show that he has incurred \$29,811.00 in attorneys' fees. Attorneys' fees accrued at a rate of \$350 per hour for Mr. Caldwell and Mr. Bridgers and \$85 per hour for paralegals and \$45 per hour for legal assistants. These rates are reasonable for practitioners and their staff members of like experience in this geographic area and legal specialty. In addition, Plaintiff incurred an additional \$2,641.60 in costs. Costs were billed at the exact amount incurred. The amount of attorneys' fees and costs set forth in the Settlement Agreement and Release represents legal work that was reasonably necessary to the prosecution of this case.

12.

The Parties request that the Court review and approve the attached Settlement Agreement and Release of Claims. In its review, "the Court should be mindful of the

strong presumption in favor of finding a settlement fair.” See *Edwards*, at \*11 (*citing Cotton v. Hinton*, 559 F.2d 1326, 1331 (5th Cir. 1977)).

13.

The Parties further request that the Court incorporate the Settlement Agreement and Release of Claims into its Order granting this Motion.

14.

If the Court approves the Settlement Agreement and Release of Claims and payment in full is made, the Plaintiff will file a Stipulation of Dismissal of this case with prejudice.

15.

For the Court’s convenience, a proposed Order granting this Motion is filed herewith.

WHEREFORE, the Parties respectfully request that the Court review and approve their Settlement Agreement and Release of Claims.

Respectfully submitted,

s/ Michael A. Caldwell

Michael A. Caldwell  
Georgia Bar No 102775  
Charles R. Bridgers  
Georgia Bar No. 080791

**DELONG CALDWELL BRIDGERS  
& FITZPATRICK, LLC**

3100 Centennial Tower  
101 Marietta Street  
Atlanta, Georgia 30303  
(770) 979-3150  
(770) 979-3170 (Fax)  
[michaelcaldwell@dcbflegal.com](mailto:michaelcaldwell@dcbflegal.com)  
[charlesbridgers@dcbflegal.com](mailto:charlesbridgers@dcbflegal.com)  
Counsel for Plaintiff

s/ Robert O. Sands

Robert O. Sands  
Georgia Bar No. 626136

**OGLETREE DEAKINS, NASH,  
SMOAK & STEWART, P.C.**

191 Peachtree Street, NW, Suite 4800  
Atlanta, GA 30303  
404.881.1300  
404.870.1732 Facsimile  
[robert.sands@ogletreedeakins.com](mailto:robert.sands@ogletreedeakins.com)  
Counsel for Defendant

**IN THE UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF GEORGIA  
ALBANY DIVISION**

**JACK M. WOOD,**

**Plaintiff,**

**vs.**

**CITY OF CORDELE,**

**Defendant.**

:  
:  
:  
:  
:  
:  
:  
:

**Civil Action Number:  
1:12-cv-00131-WLS**

**CERTIFICATE OF COUNSEL**

Pursuant to LR 7.1 NDGa the below signatory attorney certifies that this pleading was prepared with Times New Roman (14 point), one of the fonts and point selections approved by the Court in LR. 5.1 C. NDGa.

*s/ Michael A. Caldwell*  
Michael A. Caldwell  
Georgia Bar No. 102775

**IN THE UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF GEORGIA  
ALBANY DIVISION**

**JACK M. WOOD,**

**Plaintiff,**

**vs.**

**CITY OF CORDELE,**

**Defendant.**

:  
:  
:  
:  
:  
:  
:  
:

**Civil Action Number:  
1:12-cv-00131-WLS**

**CERTIFICATE OF SERVICE**

I hereby certify that on September 27, 2013, I electronically filed the within and foregoing Joint Motion For Review and Approval of Settlement Agreement with the Clerk of the Court using the CM/ECF System, which will automatically send notification of filing to counsel for all counsel of record, including:

Robert O. Sands, Esq  
**Ogletree Deakins, Nash, Smoak and Stewart**

s/ Michael A. Caldwell  
Michael A. Caldwell  
Georgia Bar No. 102775